

§ 20.23 Request for existing records.

(a) Any written request to the Food and Drug Administration for existing records not prepared for routine distribution to the public shall be deemed to be a request for records pursuant to the Freedom of Information Act, whether or not the Freedom of Information Act is mentioned in the request, and shall be governed by the provisions of this part.

(b) Records or documents prepared by the Food and Drug Administration for routine public distribution, e.g., pamphlets, speeches, and educational materials, shall be furnished free of charge upon request as long as the supply lasts. The provisions of this part shall not be applicable to such requests except when the supply of such material is exhausted and it is necessary to reproduce individual copies upon specific request.

(c) All existing Food and Drug Administration records are subject to routine destruction according to standard record retention schedules.

§ 20.24 Preparation of new records.

(a) The Freedom of Information Act and the provisions of this part apply only to existing records that are reasonably described in a request filed with the Food and Drug Administration pursuant to the procedures established in subpart C of this part.

(b) The Commissioner may, in his discretion, prepare new records in order to respond adequately to a request for information when he concludes that it is in the public interest and promotes the objectives of the act and the agency.

§ 20.25 Retroactive application of regulations.

The provisions of this part apply to all records in Food and Drug Administration files.

§ 20.26 Indexes of certain records.

(a) Indexes shall be maintained, and revised at least quarterly, for the following Food and Drug Administration records:

(1) Final orders published in the FEDERAL REGISTER with respect to every denial or withdrawal of approval of a new drug application or a new animal

drug application for which a public hearing has been requested.

(2) Statements of policy and interpretation adopted by the agency and still in force and not published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions to staff that affect a member of the public.

(b) A copy of each such index is available at cost from the Freedom of Information Staff (HFI-35), Food and Drug Administration, Room 12A-16, 5600 Fishers Lane, Rockville, MD 20857.

[42 FR 15616, Mar. 22, 1977, as amended at 46 FR 8456, Jan. 27, 1981]

§ 20.27 Submission of records marked as confidential.

Marking records submitted to the Food and Drug Administration as confidential, or with any other similar term, raises no obligation by the Food and Drug Administration to regard such records as confidential, to return them to the person who has submitted them, to review them pursuant to the procedures established in § 20.44, to withhold them from disclosure to the public, or to advise the person submitting them when a request for their public disclosure is received or when they are in fact disclosed.

§ 20.28 Food and Drug Administration determinations of confidentiality.

A determination that data or information submitted to the Food and Drug Administration will be held in confidence and will not be available for public disclosure shall be made only in the form of a regulation published or cross-referenced in this part or by a written determination pursuant to the procedure established in § 20.44.

§ 20.29 Prohibition on withdrawal of records from Food and Drug Administration files.

Except pursuant to the procedure established in § 20.44 for presubmission review of records, no person may withdraw records submitted to the Food and Drug Administration. All Food and Drug Administration records shall be retained by the agency until disposed of pursuant to routine record disposal procedures.